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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,206	12/27/2000	Akira Ohmura	108231	5375
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RAMAN, USHA				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/748,206

Applicant(s)

OHMURA, AKIRA

Examiner

USHA RAMAN

Art Unit

2424

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 36-39, 57 and 58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 36-39, 57 and 58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/02)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Response to Arguments

1. Applicant's arguments filed July 10th, 2008 have been fully considered but they are not persuasive.

Applicant argues that, "Wood does not interrupt recording of anything, but merely discloses how to choose one broadcasting program over another when both are scheduled at the same time". Examiner respectfully disagrees with applicant's contentions as Woods has been particularly relied upon as evidence that it was well known in the art at the time of the invention to assign priorities when recording programs. Applicant's arguments stating that, "neither the thumbnail image nor the other moving image is a visual broadcast program of a broadcasting program that is being broadcast" have been noted. However Itoh is particularly relied upon for the interruption step based on an assigned priority. Applicant's arguments further stating that, "thumbnail image whose creation/recording is interrupted is not digital image data that is 'not from an internal memory of the image recorder'" have been considered are however found unpersuasive as the primary reference Okada teaches that the digital still image is not from internal memory of the image recorder. Applicants additionally argues that, "Okada et al. fails to disclose the claim 36 controller 'that controls the recording circuit to interrupt the recording of the digital image data' further stating that, "Okada et al. fails to even appreciate that the situation could exist in which the recording instructions of a visual broadcast program are detected during the recording of digital image data". Applicant has attempted to argue the all of the claim limitations against each reference individually

without considering the combination of the references together. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The system of Okada combined with Wood and Itoh relies upon the features of Wood that teaches it was well known to assign priorities in the event of resource conflict, and further relies upon the teachings of Itoh that it was well known to run a low priority task in the background and interrupt it for a higher priority task thereby allowing the system resources to be utilized efficiently. Accordingly these teachings when incorporated into the system of Okada allow the system resources to be utilized efficiently by running low priority task in the background and interrupting the low priority task to undertake the higher priority task. Therefore it is the *combination* of these references that allow for "a recording circuit to interrupt the recording of the digital image data, when recording instructions of the visual broadcast programs are detected during the recording of the digital image data".

For these reasons stated above, the rejection is maintained.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 36-37, and 58, are rejected under 35 U.S.C. 103(a) as being unpatentable over Okada et al. (US Pat. 6,266,483) in view of Itoh et al. (US PG Pub. 2001/0016108) and Wood et al. (2002/0054752).

4.

Regarding claim 36, Okada discloses a DVD-RAM image recording medium for use in an image recorder for recording television broadcast programs and still pictures from a digital camera (see col 6, lines 43-52).

Okada discloses a first receiver (digital tuner 1905 - see col 16 lines 7 - 16) which receives broadcasted programs via satellite and a second receiver (decoder 1908 - see col 16 lines 7 - 16) which receives images from a still camera (see col 15 lines 32 - 37, see col 6 lines 43 - 52). It is noted that since broadcast programs and still images are recorded on the DVD, necessarily Okada discloses a "storage capable of storing both the data of visual broadcast program and digital image data" and a "recording circuit capable of recording both the data of visual broadcast program and the digital image data into storage". Okada discloses that video data is obtained from a terrestrial broadcasting source, or digital broadcasting source (i.e. data of the visual broadcast program is a broadcasting program that is being broadcast), and additionally discloses that still pictures are obtained by taking pictures on a digital still cameras (as such the still pictures is not a broadcasting program and does not originate from the image recorder and therefore is "not *from* an internal memory of the image recorder"). See column 6, lines 43-52. As the sources of the two data maybe different, the data of the visual broadcast program

maybe different from the digital image data, in addition to the format of the two data itself being different.

Okada further discloses a user can request to record a broadcast program from the digital tuner (see col 17 lines 15 - 20). It is noted that based on the user request, system controller 1902 (see fig. 19) controls the recording circuit to record the broadcast programs and the image data (see col. 17 lines 17 - 42).

Okada only discloses the step of user requesting record of either images from a still camera or broadcast video programs and user requesting a stop record command to halt the recording process for either. Okada fails to disclose interrupting the recording of digital image data when recording instructions of the visual broadcast program are detected during the recording of the digital image data.

In an analogous art, Wood is evidence to one of ordinary skill in the art that it was well known at the time of the invention to assign priorities for recording select broadcast programs (such as highly preferred programs or programming type) wherein the priority is used to determine the importance of programs for conflict resolution (see [0038] and [0043]). As such Wood shows that priorities maybe assigned to multimedia data, and shows a method of utilizing the priority for managing conflict by recording the higher priority in lieu of the lower priority.

In a similar field of endeavor of handling the event of a resource conflict based on priority, Itoh however discloses the step of providing different levels of priority to recording of different data. The generating and storing one type of data (i.e. thumbnail images), is given lower priority over storing a second type of data (i.e.

video). Itoh allows the lower priority task to run in the background, until the higher priority task is commenced or initiated, upon which the lower priority task is halted in favor the higher priority task. Itoh therefore provides a method for utilizing system resources for carrying on the lower priority task in the background until a higher priority event demands the resources and at such a time interrupts the lower priority task to perform the higher priority task.

Both Woods and Itoh bear sufficient evidence that it was well known in the art at the time that the elements of assigning priority to multimedia recordings, and additionally the method of running a low priority task in the background that can be halted or interrupted in favor of the higher priority task was also well known in the art at the time of the invention. All the claim elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

Claim 37 is met by the step of a digital still camera taking digital image data. See Okada column 6, lines 50-52.

With regards to claim 58, Okada discloses that video sources include terrestrial broadcasting TV program, digital broadcasting TV program, whereas still cameras are source of still images. See column 6, lines 43-52. Okada therefore discloses that the source of the digital image data is different from and independent of a source of the data of the visual broadcast program.

5. Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Okada (US Pat. 6,266,483) in view of Itoh et al. (US PG Pub. 2001/0016108) and Wood et al. (2002/0054752) as applied to claim 36 above, and further in view of Browne (WO 92/22983).

Regarding claim 39, However, Okada fails to disclose simultaneous recording of image data with data of the visual broadcast program.

In analogous art, Browne additionally teaches a storage 104c providing simultaneous recording of programs from a multiple of sources (see Abstract). Browne therefore bears evidence of a system with sufficient resources to record a data from a plurality of sources at the same time when available. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the system to include the claimed storage medium to enable simultaneous recording of data from a plurality of sources.

6. Claims 38 and 57 is rejected under 35 U.S.C. 103(a) as being unpatentable over Okada et al. (US Pat. 6,266,483), Itoh et al. (US PG Pub. 2001/0016108) and Wood et al. (2002/0054752) in view of Fumio (JP 10-129082).

With regards to claims 38 and 57, the modified system lacks that the control restarts the recording of the digital data image when the recording of the broadcast program ends.

In an analogous art, Fumio further teaches the step of resuming a lower priority task that was previously interrupted in favor of a higher priority task, when

the higher task priority task has completed. See abstract and [0006]. Fumio therefore provides the advantages of resuming a low priority task automatically upon completion of high priority tasks, thereby making use of the resources as soon as they become available again.

It would have been obvious to one of ordinary skill in the art to further modify the system improving the interruption method of Itoh with the resumption method of a lower priority task as taught by Fumio in order to utilize the resources for completion of lower priority tasks as soon as they become available again.

With further records to claim 38, in resuming the recording until after the recording is completed, the modified system effectively postpones the recording of the lower priority task once interrupted until the higher priority task has been completed.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to USHA RAMAN whose telephone number is (571)272-7380. The examiner can normally be reached on Mon-Fri: 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Usha Raman/

/Chris Kelley/

Supervisory Patent Examiner, Art Unit 2424